

# LICENSING AND ENFORCEMENT DIVISION



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## AUTHORITY

The Licensing and Enforcement Division is responsible for the licensing of over 5,000 financial institutions under the following consumer finance statutes:

- Consumer Financial Services Act
- Credit Card Act
- Mortgage Brokers, Lenders, and Servicers Licensing Act
- Motor Vehicle Sales Finance Act
- Regulatory Loan Act
- Sale of Checks Act
- Secondary Mortgage Loan Act

In addition to the processing of license applications, the division is responsible for processing license renewals and amendments, conducting background investigations of license applicants, conducting enforcement actions and conservatorships, investigating consumer complaints against regulated entities, and making recommendations to assist senior management in the development of policies regarding the licensing and regulation of nondepository financial institutions.

## CONSUMER FINANCE STATUTES

### CONSUMER FINANCIAL SERVICES ACT

The Consumer Financial Services Act, Act No. 161 of the Public Acts of 1988, as amended, provides for the licensing and regulation of institutions which provide a variety of financial services, and eliminates the need to acquire a separate license for each activity. A "Class II" license authorizes services under the Regulatory Loan Act, Motor Vehicle Sales Finance Act, Secondary Mortgage Loan Act, and Credit Card Act. A "Class I" license authorizes

services under the Sale of Checks Act and Mortgage Brokers, Lenders, and Servicers Licensing Act in addition to the authorities provided under a Class II license.

A Class I license under the act requires a bond of \$125,000 plus \$3,000 for each Sale of Checks agent up to \$250,000, and a minimum net worth of \$100,000. A Class II license requires a bond of \$25,000, and a minimum net worth of \$50,000.

The Consumer Financial Services Act was modernized in late 1999, to mirror some of the changes made in earlier modernizations of the Mortgage Brokers, Lenders, and Servicers Licensing Act and the Secondary Mortgage Loan Act. For example, under the modernization, separate licenses for each branch office will no longer be required, and an annual operating fee (in lieu of an annual license renewal fee) will be assessed based on a licensee's volume of business during the preceding year. The amended act will become effective January 5, 2000.

There were 144 offices operating under a Class I license and 65 offices operating under a Class II license at year-end 1999. This compares to 154 Class I licensees and 68 Class II licensees as of December 31, 1998.

### **CREDIT CARD ACT**

The Credit Card Act, Act No. 379 of the Public Acts of 1984, as amended, authorizes the licensing and regulation of non-depository issuers of credit cards. A mini-

mum net worth of \$1,000,000 is required by the act. The commissioner may establish a higher net worth requirement if it is necessary to assure a safe and sound operation. There are no bonding requirements.

Four companies were licensed under the act as of December 31, 1999, unchanged from the prior year.

### **MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT**

The Mortgage Brokers, Lenders, and Servicers Licensing Act, Act No. 173 of the Public Acts of 1987, as amended, provides for licensing, registration, and regulation of mortgage brokers, mortgage lenders, and mortgage servicers. The act pertains to loans secured by first mortgages or land contracts covering real property located in the state of Michigan, which is used, or improved to be used, as a dwelling and designed for occupancy by four or fewer families. Licensees are typically required to have a minimum net worth ranging from \$25,000 to \$100,000 and must generally post a bond, letter of credit, or certificate of deposit in amounts ranging from \$25,000 to \$125,000, depending on the type of services being offered.

There were 1,270 licensees and 283 registrants at year-end 1999. This compares to 952 licensees and 261 registrants as of December 31, 1998.

### **MOTOR VEHICLE SALES FINANCE ACT**

The Motor Vehicle Sales Finance Act, Act No. 27 of the Public Acts of 1950, as

amended, regulates certain installment sales of motor vehicles. It provides for licensing and regulation of both the installment sellers, who are motor vehicle dealers originating installment sales contracts, and sales finance companies, the financial institutions that purchase these contracts from the dealers. The act requires bonding of sales finance companies ranging from \$5,000 to \$20,000 for main offices, plus \$10,000 for each branch office. Installment sellers do not have a bonding requirement. The act imposes no net worth requirements on installment sellers or sales finance companies.

As of December 31, 1999, there were 2,147 dealers licensed as installment sellers, down from 2,165 at year-end 1998. There were 815 sales finance companies (including depository financial institutions) at the end of 1999, declining from 868 at year-end 1998.

### **REGULATORY LOAN ACT**

The Regulatory Loan Act, Act No. 103 of the Public Acts of 1963, as amended (successor to Act No. 317 of the Public Acts of 1921, the Small Loan Act), authorizes the licensing and regulation of entities which make personal loans to consumers. The act prohibits the use of real estate as security for these loans. The act has no bonding requirement, however, licensees are required to maintain \$50,000 in liquid assets.

There were 52 licensees at year-end 1999, as compared to 51 on December 31, 1998.

### **SALE OF CHECKS ACT**

The Sale of Checks Act, Act No. 136 of the Public Acts of 1960, as amended, authorizes the licensing and regulation of the business of selling and issuing travelers checks, drafts, and money orders as a service or for a fee. The act also regulates telegraph companies which transfer funds by wire. The act requires a \$100,000 minimum net worth and a minimum bond of \$100,000 plus \$3,000 for each agent up to a maximum of \$250,000.

At the end of 1999, there were 20 sale of checks licensees, as compared to 21 at year-end 1998.

### **SECONDARY MORTGAGE LOAN ACT**

The Secondary Mortgage Loan Act, Act No. 125 of the Public Acts of 1981, as amended, authorizes the licensing, registration and regulation of entities which make secondary mortgage loans for personal, family, or household purposes. The act also allows for loans secured by other collateral in addition to real property. Licensees are typically required to have a net worth ranging from \$25,000 to \$100,000 and must generally post a bond or letter of credit in an amount ranging from \$25,000 to \$125,000, depending on the type of services being offered.

There were 21 licensees and 497 registrants under the act as of December 31, 1999, compared to 27 licensees and 404 registrants at year-end 1998.

## LICENSING TRENDS

The number of licensees and registrants under the division's jurisdiction grew significantly during the year. In 1999, the division processed over 1,100 new license and registration applications and over 4,700 applications for renewal. The total license and registration population in all seven programs topped 5,000 for the first time, and ended the year at 5,318.

The most significant increase was in the division's first mortgage program, which grew 28% over the course of the year, and a phenomenal 62% since year-end 1997. The mortgage industry has benefited greatly from a strong economy, with an extended period of low interest rates and high mortgage refinance activity. However, with the recent upward trend in mortgage interest rates, a decrease in mortgage originations is likely. As a result, some shake-out in the mortgage industry is expected in the coming year.

## Y2K UPDATE

Beginning in 1998, most license applicants were required to provide a description of their plans to ensure Year 2000 readiness. By and large, this transition by licensees into 2000 occurred without incident, and very few Y2K-related problems were reported to the division.

## ENFORCEMENT ACTIVITIES

Various enforcement actions were taken during the year which resulted in license

revocations, orders to cease and desist, and application denials and withdrawals.

As of December 31, 1999, the division had several enforcement actions pending. Administrative hearings or other actions on these matters have been scheduled for 2000.

### MCA FINANCIAL CORP.

On January 28, 1999, Commissioner Patrick M. McQueen issued an "Order Appointing Conservator," which placed the failed MCA Financial Corp. and its eleven affiliates ('MCA') into conservatorship. MCA was a large mortgage broker, lender, and servicer headquartered in Southfield, Michigan. It also operated in a number of other states.

Concerns regarding MCA's servicing of mortgage and land contract accounts prompted the commissioner's action. Mortgage payments made to MCA by consumers were not being properly credited to their accounts, and payments for property taxes and homeowners insurance were not being made to the taxing authorities or insurance carriers. Two of the MCA affiliates, MCA Mortgage Corporation and Mortgage Corporation of America, were registered with the Bureau under the Mortgage Brokers, Lenders, and Servicers Licensing Act and/or the Secondary Mortgage Loan Act.

Under the commissioner's order, B. N. Bahadur of BBK, Ltd. was named MCA's conservator. On February 11, 1999, a

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petition for Chapter 11 bankruptcy was filed by the conservator in the United States Bankruptcy Court, Eastern District of Michigan. The bankruptcy remained in effect at year-end 1999.

The conservator, who was also appointed debtor-in-possession under the Chapter 11 bankruptcy proceeding, has managed the affairs of MCA on a day-to-day basis. However, Bureau staff has continued to work with the conservator throughout the year on numerous complex issues relating to the bankruptcy and wind-up of MCA's affairs.

## COMPLAINT ACTIVITIES

During 1999, the division received over 500 written complaints filed against licensees by consumers and creditors. As in previous years, the vast majority of total complaints were filed against mortgage companies. Many of the complaints involved problems with the mortgage application process. Others involved the mortgage servicing function, including the non-payment of property taxes and/or insurance, imposition of late fees, failure to properly credit payments, and increases in escrow balances in excess of federal guidelines.

## POLICY BULLETIN

On July 13, 1999, the Bureau issued Motor Vehicle Bulletin 1999-1, regarding the disclosure of negative equity on installment sale contracts. In a related declaratory rul-

ing issued by Commissioner Patrick M. McQueen on April 23, 1999, the Bureau concluded that a licensee under the Motor Vehicle Sales Finance Act may, on an installment sale contract for the purchase of a motor vehicle, finance the amount of negative equity associated with a vehicle traded in. Bulletin 1999-1 was issued to provide further guidance on the method which should be used by licensees to disclose negative equity on installment sale contracts.

Each license applicant under the Motor Vehicle Sales Finance Act, prior to receiving a license, must submit its installment sale contract to the division for approval. The division reviews each contract to ensure that it complies with the provisions of Motor Vehicle Bulletin 1999-1.

## STAFF TRAINING AND PROFESSIONAL DEVELOPMENT

The Division maintains a strong commitment to training and professional development. All division staff members attended at least two professional development or training seminars during 1999, including classes and seminars offered by the National Association of Consumer Credit Administrators, Michigan Association of Certified Public Accountants, and the Department of Civil Service.

During the year, division staff members also spoke at the Michigan Mortgage Brokers Association Annual Meeting, and served as panelists during the 1999



National Association of Consumer Credit Administrators Examiners School.

## FIB WEB SITE

During 1999, significant additional information relating to the division's programs was added to the Bureau's Web site. The following information may be found on our site at [www.cis.state.mi.us/fib/](http://www.cis.state.mi.us/fib/):

- copies of consumer finance statutes and administrative rules
- license and registration application forms
- licensing fee schedules
- answers to frequently asked questions
- policy bulletins and position statements
- declaratory rulings
- consumer complaint form
- licensee and registrant name and address listings

## LICENSEES AS OF DECEMBER 31

	1999	1998
<b>CONSUMER FINANCIAL SERVICES ACT</b>		
Number of Class I licensees	144	154
Number of Class II licensees	65	68
<b>CREDIT CARD ACT</b>		
Number of licensees	4	4
<b>MORTGAGE BROKERS, LENDERS, AND SERVICERS LICENSING ACT</b>		
Number of licensees	1,270	952
Number of registrants	283	261
<b>MOTOR VEHICLE SALES FINANCE ACT</b>		
Number of sales finance licensees	815	868
Number of installment seller licensees	2,147	2,165
<b>REGULATORY LOAN ACT</b>		
Number of licensees	52	51
<b>SALE OF CHECKS ACT</b>		
Number of licensees	20	21
<b>SECONDARY MORTGAGE LOAN ACT</b>		
Number of licensees	21	27
Number of registrants	497	404